IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.
APPEAL NO.61 OF 2006
IN
NOTICE OF MOTION NO. OF 2006
IN
SUIT NO. 256 OF 2006

Ravinderpal Singh Bains .. Appeallnt
v/s.
Kareena Sana Combine and others .. Respondents

Mr.A.Y.Bookwala i/by M/s.Ranjit & Co. for the appellant.

Ms.Ranjana Todankar for the respondent No.1.

CORAM : R.M. LODHA &
ANOOP V.MOHTA, JJ.

DATED : 7TH FEBRUARY, 2006.

P.C.

Heard Mr.A.Y.Bookwala, the learned counsel for the appellant.

2. As per the case of the appellant (`the plaintiff'), by the agreement dated 16th August, 2002, overseas rights for the entire world excluding India were granted in respect of the suit picture `Mere Jeevan Saathi'. The consideration of the agreement was finalised at Rs.3.75 crores. As per the agreement, Rs.1,00,00,000/- was to be paid on the signing of the memorandum of agreement. According to the plaintiff, the said amount was paid by transfer of Rs.65,00,000/- ($ 25289 on 8th August, 2001 and $ 62,689.85 on 25th September, 2001) to Shree Krishna Exports Pvt.Ltd. by way of transfer from the Lloyds TSB Bank and Rs.35,00,000/- was paid to Bobby Anand.

3. On the other hand, the defendants' case is that the agreement dated 16th August, 2002 came to an end and it stood terminated as the plaintiff failed to pay Rs.1,00,00,000/- on signing the memorandum of agreement. According to the defendants, there is no subsisting and valid agreement between the plaintiff and the defendants in respect of the overseas rights for the entire world excluding India of the said film `Mere Jeevan Saathi'. The defendants' have set up the case that as the plaintiff committed default in payment of Rs.1,00,00,000/-, they entered into an arrangement with defendant No.2 on 22.2.2005 in respect of the overseas rights for the film `Mere Jeevan Saathi' in supersession of all other previous agreements.

4. Having considered the available material, it is very difficult to accept the case of the plaintiff that a sum of Rs.1,00,00,000/- was paid by the plaintiff to the defendants pursuant to the agreement dated 16.8.2002 in the manner suggested by him. The transfer of a sum of Rs.65,00,000/- to Krishna Exports Pvt.Ltd. is not established to have been made pursuant to the agreement dated 16.8.2002 nor the plaintiff has been able to establish the cash payment of Rs.35,00,000/- to Bobby Anand. As a matter of fact, the stand of the plaintiff regarding payment of Rs.1,00,00,000/- as set out in paragraph 4 of his affidavit (page 11 of the paper-book) does not inspire any confidence and can hardly be accepted. Prima facie, therefore, we find that the the plaintiff has not been able to establish the subsisting agreement dated 16.8.2002.

5. In the circumstances, the trial Judge cannot be said to have erred in refusing to grant the ad-interim relief.

6. Appeal has no merit and it is dismissed in limine.

7. Needless to say, the observations made by the learned trial Judge in the impugned order and by us in this order are only for the purposes of consideration of the ad-interim relief. Obviously, the notice of motion shall be heard and decided by the learned trial Judge uninfluenced by this order and the impugned order.

(R.M.LODHA, J.)

(ANOOP V. MOHTA, J.)